Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Review of the Emergency Alert System	)	EB Docket No. 04-296

REPLY COMMENTS OF USA MOBILITY, INC.

Scott B. Tollefsen
General Counsel and Secretary
USA MOBILITY, INC.
6677 Richmond Highway
Alexandria, Virginia 22306
(703) 718-6608

Matthew A. Brill
Samuel Logan
LATHAM & WATKINS
555 11th Street, N.W.
Suite 1000
Washington, D.C. 20004-1304
(202) 637-2200

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Counsel for USA Mobility, Inc.

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INTRODUCTION AND SUMMARY

USA Mobility, Inc. ("USA Mobility") respectfully replies to the comments filed in response to the Commission's Further Notice of Proposed Rulemaking ("FNPRM") in the above-captioned docket regarding the proposed expansion of the Emergency Alert System ("EAS").[1] As stated in USA Mobility's initial comments, paging carriers' unique network attributes and widespread use by first responders, medical personnel, and government agencies make paging services ideally suited to participating in the expanded EAS. USA Mobility looks forward to working with the Commission to ensure that the new system takes full advantage of this valuable technology.

The comments reflect nearly universal support for the Commission's goal of developing a more comprehensive, redundant, and efficient EAS. While USA Mobility believes that this goal will be best served through the adoption of a mandatory system, we agree with wireless carriers and other commenters that the expanded EAS should be supported by government funding, should include liability protection for participating carriers, and should be implemented flexibly such that carriers have adequate time to deploy any necessary facilities. The expanded EAS also

[1] *Review of the Emergency Alert System*, First Report and Order and Further Notice of Proposed Rulemaking, EB Docket No. 04-296 (rel. Nov. 10, 2005) ("*FNPRM*").

should utilize technical standards that are interoperable across communications platforms and should entail coordination among authorities at each level of government. The Commission can best promote these objectives by establishing a working group that brings together representatives from across the industry and government. This process will yield an EAS that preserves the public interest, promotes the efficient use of resources, and encourages innovation within the industry.

DISCUSSION

I. THE COMMISSION'S INITIATIVE ENJOYS WIDESPREAD SUPPORT AMONG COMMENTERS.

The telecommunications industry has responded to the proposed expansion of the EAS with overwhelming approval. For example, wireline carriers have voiced support for "a more comprehensive EAS system that might encompass both mass media and non-mass media services."[2] The cable industry likewise backed the expanded EAS, applauding in particular the Commission's goal of utilizing "advanced digital technology to promote the widespread dissemination of all-hazard alerts over a variety of communications platforms."[3] A coalition of satellite providers noted: "If the Commission decides that satellites should play a role in EAS distribution, the satellite industry is ready, willing, and able to assist."[4] In addition, representatives from the wireless industry, despite concerns about costs and technical feasibility, "fully support"[5] and "embrace"[6] the Commission's goal of developing an EAS that can respond adequately to the unique communications challenges posed by disasters like Hurricane Katrina and September 11. USA Mobility joins with these and other representatives from each industry

[2] Comments of BellSouth Entertainment, LLC at 2.

[3] Comments of the National Cable & Telecommunications Association at 2.

[4] Joint Comments of PanAmSat Corporation; SES Americom, Inc.; and Intelsat, Ltd. at 4.

[5] Comments of Cingular Wireless, LLC at 1.

[6] Comments of T-Mobile at 2.

sector to applaud and partner with the Commission in its ongoing efforts to create a comprehensive yet workable system.

II. PARTICIPATION IN THE EXPANDED EAS SHOULD BE MANDATORY BUT SHOULD ALSO ACCOMMODATE THE LEGITIMATE CONCERNS EXPRESSED BY COMMENTERS.

In its opening comments, USA Mobility argued that a mandatory regime is necessary to develop and sustain a successful EAS.[7] As explained below, commenters' concerns about a mandatory regime are legitimate and should be addressed through governmental funding, liability protection, and flexible implementation. But USA Mobility continues to believe that the mandatory inclusion of wireless carriers (subject to the caveats explained below) is the best way to ensure maximum participation in the expanded EAS, for three key reasons: (1) the likely inability of market forces to produce broad participation; (2) the critical policy objective of ensuring that emergency alerts be disseminated to all consumers; and (3) the usefulness of a mandatory system in crafting a coordinated, uniform EAS.

First, market incentives will not likely generate a successful expansion of the EAS. Because of the substantial upfront costs associated with system development, wireless carriers will be averse to participating, as their comments reflect. Some commenters argue that market forces will compel wireless carriers to participate to the extent consumers perceive wireless EAS alerts as valuable.[8] However, consumers are unlikely to value emergency alerts until the information is needed—at which time it is too late. Few were fully prepared for the wrath of Hurricane Katrina when it made landfall, despite accurate predictions from the National

[7] *See* Comments of USA Mobility at 10-11.

[8] *E.g.*, Comments of Sprint Nextel at 2-3.

Hurricane Center of the storm's magnitude.[9] Among the many lessons learned from Hurricane Katrina is that many people will neither foresee the full scale of an emergency nor take the precautions necessary to deal with it effectively. Accordingly, if participation is purely voluntary, the EAS likely will not achieve the Commission's goals.

Second, the Commission should adopt a mandatory system to ensure that emergency information is disseminated to as many consumers as possible. The Commission has clearly stated that its objective in developing the expanded EAS is to implement "an accurate, wide-reaching public alert and warning system" that has "built-in redundancy features and use[s] a variety of communications media." [10] In our increasingly mobile society, it is critical that all wireless users have access to emergency alerts and warnings on their wireless devices. If participation is voluntary, however, consumers relying on wireless providers who have chosen to "opt out" will not experience the full benefits of the new system. Emergency information is critical and often life-saving. Access to emergency alerts should not depend on a carrier's decision whether or not to provide this information.

Third, a mandatory system best positions the Commission to adopt uniform technical standards and to coordinate among various industry participants and government entities. For the Commission to establish workable technical standards, it must first know to whom the standards will be applied. A mandatory system removes any ambiguity about the identity of the participants and the technologies they employ. Further, the Commission will likely receive more input from industry participants in a mandatory system than in a voluntary one. Providers who know the system will apply to them have a vested interest in making sure it is workable, cost-

[9] Remarks of Steve Delahousey, American Medical Response, South Central Division, at 1, The FCC Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks (Jan. 30, 2006), *available at* http://www.fcc.gov/eb/hkip/presenters060130/p07.pdf.

[10] *FNPRM* ¶ 62.

efficient, and coordinated among the local, state, and federal levels. They will be quick to provide critical technical information and to assist the Commission in achieving its public safety objectives. In this sense, a mandatory system will help the Commission gain the clearest possible understanding of the various implications of the expanded EAS.

While the new system should be mandatory, commenters have raised legitimate concerns regarding the technical limitations of current technology and infrastructure, as well as the costs involved in achieving EAS-readiness.[11] Several commenters note the tremendous strain that carriage of EAS alerts would place on the point-to-point architecture currently employed to transmit wireless messages over broadband PCS and cellular networks. According to one commenter, "The simultaneous transmission of hundreds of thousands of text messages, if not millions during a national emergency, as well as the need to constantly query databases to determine the location of an end-user, would cause severe congestion and delay delivery."[12]

In addition to the burden on network infrastructure, an expanded alert system would likely require the replacement of most cellular and PCS handsets due to the limitations of existing technology. Wireless handsets currently in use for voice communications are incapable of receiving geo-specific EAS alerts, which could cause overly broad transmission of emergency information and lead to unnecessary panic and confusion among subscribers who are outside the affected area.[13] Wireless cellular and PCS handsets are also particularly designed for point-to-point distribution, and broadcast or multicast transmission systems intended for use by cellular

[11] *E.g.*, Comments of Cingular at 6 (identifying technical obstacles to providing EAS); Comments of T-Mobile at 23 (noting the significant costs entailed by EAS upgrades).

[12] Comments of CTIA at 3; *see also* Comments of Cingular at 6; Comments of Sprint Nextel at 13; Comments of T-Mobile at 3.

[13] Comments of T-Mobile at 19-20.

and PCS customers are still in experimental phases.[14] If the Commission were to adopt a broadcast or multicast system, virtually all wireless handsets would have to be upgraded.[15] The replacement of handsets poses a major potential cost to wireless providers that should be addressed by the Commission before a mandatory system is imposed.

Due to these concerns, the Commission should implement protective measures to ensure that compliance with a mandatory EAS is not unduly burdensome. These measures should include an appropriate implementation timeframe, financial assistance, and liability protection for EAS participants.

USA Mobility believes that an appropriate timeframe for implementation of the expanded EAS is essential to the full and meaningful participation of all interested parties. While it is certainly important to develop a comprehensive, redundant EAS as soon as possible, a hasty approach to system development will undermine the Commission's ultimate objective. Wireless carriers in particular may need additional time to adapt their network infrastructure and hardware to the new system.[16] The Commission should consider allowing wireless carriers to phase in their participation until full compliance is reached. A phase in will allow outmoded handsets to be replaced on a rolling basis by new, EAS-ready handsets, thus minimizing the financial strain on the industry. A phase in will also provide time for the industry to innovate, resulting in the application of state-of-the-art technologies to the EAS.

Financial assistance for EAS participants also may be an essential prerequisite to a workable system that includes all wireless providers. As numerous commenters have stated,

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[14] *Id*. at 20.

[15] *See* Comments of Sprint Nextel at 4.

[16] *E.g.*, Comments of Cingular at 7 (calling for additional time to implement EAS on SMS or other point-to-point technology platforms).

participation in the EAS comes with a high price tag.[17] Carriers should not be forced into the system and then required to bear these substantial financial burdens alone. As one commenter notes, if financial assistance is not provided, wireless carriers would have to recover costs either from the public or from participating government entities.[18] The Commission can avoid both of these unfavorable outcomes by working with Congress to secure financial assistance for EAS participants.

The Commission also should work with Congress to limit the liability of participants in the expanded system. Wireless carriers should not be held legally responsible for failing to timely deliver emergency alerts, especially in light of the technical obstacles facing such carriers.[19] The threat of private litigation over whether a wireless carrier adequately complied with its obligations during an emergency would stifle innovative approaches to participation. If the Commission determines that it lacks the authority to limit liability on its own, it should work with Congress to create a legal environment that fosters innovation and experimentation by EAS participants.

III. THE EXPANDED EAS SHOULD BE BUILT ON INTEROPERABILITY AMONG TELECOMMUNICATIONS PROVIDERS AND COORDINATION AMONG FEDERAL, STATE, AND LOCAL GOVERNMENT AUTHORITIES.

One of the Commission's primary objectives in developing an expanded EAS ought to be the implementation of an interoperable, coordinated system architecture.[20] A comprehensive

[17] *E.g.*, Comments of CTIA at 9; Comments of Ericsson at 7-8.

[18] Comments of T-Mobile at 23.

[19] *See* Comments of CTIA at 8; Comments of Cingular at 12; Comments of T-Mobile at 24; Comments of Sprint Nextel at 8.

[20] The disabling impact of Hurricane Katrina on communications networks revealed serious deficiencies in current network architecture. *See generally* Remarks of The FCC Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks (Jan. 30, 2006), *available at* http://www.fcc.gov/eb/hkip/Presenters060130.html. As noted in USA Mobility's opening comments, our paging network was less affected by the Hurricane and recovered more quickly than other communications network architectures. Comments of USA Mobility at 3-4.

EAS must be interoperable among different telecommunications platforms, and an efficient EAS must be closely coordinated among government authorities at the federal, state, and local levels. The Commission should establish a working group to accomplish these goals.

A. The System Must Be Interoperable Across Telecommunications Platforms.

The Commission should design technical standards that include all telecommunications providers. USA Mobility joins a chorus of other commenters that have urged the Commission to adopt a Common Alerting Protocol ("CAP").[21] Such a CAP appears well-suited for the uniform distribution of emergency alerts. Regardless of which protocol the Commission ultimately adopts, the Commission should ensure that emergency information can be transmitted seamlessly across differing telecommunications platforms.

As some commenters have noted, a national clearinghouse might also help with the seamless distribution of emergency information.[22] Although federal, state, and local authorities should remain responsible for issuing alerts, a national clearinghouse could promote system interoperability by collecting and disseminating alerts in a centralized, uniform manner. This centralized clearinghouse would be tasked with collecting emergency information from federal, state, and local authorities, prioritizing and reconciling any discrepancies among incoming messages, and delivering a uniform emergency message to the geographically appropriate recipients.

B. The System Should Be Coordinated Among Government Entities.

As the Commission has recognized, state and local government authorities play a vital role in emergency response and alert dissemination.[23] Many emergencies, such as Hurricane

[21] *E.g.*, Comments of Cox Broadcasting, Inc. at 4; Comments of Society of Broadcast Engineers at 11-15; Comments of NCTA at 5.

[22] *E.g.*, Comments of Sprint-Nextel at 7.

[23] *FNPRM* ¶ 73.

Katrina and September 11, implicate authorities at multiple levels of government. The expanded EAS, therefore, must be able to coordinate government responsibilities, both vertically (among entities at the federal, state and local levels) and horizontally (among various entities at the same level). With careful oversight by the Commission, consumers can be assured that they will receive the emergency information they need, regardless of whether the alert is issued by federal, state, or local authorities.

Coordination among government entities is also essential to avoid imposing ambiguous or superfluous requirements on EAS participants. Many telecommunications providers operate in multiple localities or states. The absence of clear protocols that must be followed by all government entities would undermine these providers' ability to function efficiently in multiple markets.[24] In contrast, EAS protocols that are uniform for federal, state, and local government authorities will promote the overall health of the telecommunications industry, and, by extension, the public at large.

C. The System Is Best Developed Through a Working Group that Brings Key Stakeholders to the Table.

The Commission can most effectively develop an interoperable, coordinated EAS through an inclusive working group.[25] This working group should be composed of representative parties who hold a significant stake in the outcome, including industry representatives from each relevant sector and government authorities at all levels. Such an approach is particularly critical because of the differing network architectures employed by telecommunications providers across the industry. For instance, paging carriers and satellite providers utilize a point-to-multipoint architecture, while cellular carriers rely on a point-to-point

[24] *See* Comments of BellSouth Entertainment, LLC at 4-5.

[25] *See* Comments of Cingular at 4; Comments of Verisign at 4.

terrestrial system. A working group will help the Commission find an EAS solution that can interface with a variety of communications platforms. In several key respects, the Commission's approach to establishing wireless priority access service ("WPS") serves as an example of a successful public/private partnership in which the Commission set clear uniform operating protocols, but left many of the technical details to be decided by WPS participants.[26]

The working group also should include government authorities at the local, state, and federal levels. In particular, it should include participation by representatives of the Federal Emergency Management Agency ("FEMA") and the National Weather Service ("NWS"), both of which have made significant contributions to the current public emergency alert system.[27] These federal agencies, in conjunction with state and local authorities, can provide useful insights into the strengths and weaknesses of the existing system, shed light on the best use of government resources, and help coordinate their responsibilities in the new system.

[26] *See* Comments of Cingular at 4.

[27] *See* Comments of Consumer Electronics Association at 2; Comments of Radioshack Corporation at 3-4.

CONCLUSION

For the foregoing reasons and for the reasons submitted in its initial comments, USA Mobility respectfully urges the Commission to adopt an expanded EAS that accommodates commenters' legitimate concerns about cost, technical limitations, and potential liability. Further, the Commission should establish a public/private working group to help the Commission develop interoperable technical standards and coordinate the roles of government authorities at the federal, state, and local levels.

Respectfully submitted,

/s/ Matthew A. Brill

Scott B. Tollefsen
General Counsel and Secretary
USA MOBILITY, INC.
6677 Richmond Highway
Alexandria, Virginia 22306
(703) 718-6608

Matthew A. Brill
Samuel Logan
LATHAM & WATKINS
555 11th Street, N.W.
Suite 1000
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